

REMARKS

Claims 25-29 and 38-43, 45, and 47-49 were pending in the application. Claims 25-29 and 38-43, 45, and 47-49 have been amended. Accordingly, after entry of the instant amendments, claims 25-29, 38-43, 45, and 47-49 will be pending in the application. Support for the amendments can be found in the specification and claims as originally filed. No new matter has been added. The amendments were made solely to expedite prosecution, and do not reflect a concession to the validity any rejection. Applicants reserve the right to pursue any cancelled subject matter in this or a different application.

Applicants note that the Office Action contains a number of inconsistencies in the recitation of which claims are currently pending. The Office Action Summary indicates that 25-29 and 38-49 are pending. Applicants submit that this version of the pending claims does not recognize the cancellation of claims 44 and 46. The first three lines of page 2 of the Office Action, directly under the heading “DETAILED ACTION”, indicate that claims 25-29, 38-43, 45, and 47 are pending. Applicants submit that this version of the pending claims does not recognize that claims 48 and 49 are still pending. Under the various rejections, claims 1, 44, and 46 have been rejected, despite having been previously cancelled.

Applicants respectfully request that claims 25-29 and 38-43, 45, and 47-49 be correctly recognized as the currently pending claims.

Rejection of Claims 1, 26-29, 39, 40, and 44-49 Under the Judicially-Created Doctrine of Non-Statutory Double-Patenting

Claims 1, 26-29, 39, 40, and 44-49 have been rejected under the judicially-created doctrine of non-statutory double-patenting. According to the Examiner, the claims are not patentably distinct from the claims of U.S. Patent No. 5,869,270 to Rhode et al. when “‘A represents at least one empty sc-MHC class II molecule’ and ‘D represents at least one empty sc-MHC class II molecule’”.

Applicants note that claims 1, 44, and 46 have been cancelled. Accordingly, the rejection of these claims is rendered moot.

Applicants respectfully traverse this rejection. However, in the interest of expediting prosecution, and in no way conceding to the validity of the rejection, Applicants have amended claims 25, 28, 45, and 48 such that they recite that “D represents at least one ligand binding molecule or –H”, and no longer recites that “D represents at least one empty sc-MHC class II molecule”.

Claims 26, 29, 47, 49 were also included because, according to the Examiner, “the term ‘effector molecule’ as broadly recited in the claims reads upon a second MHC class II molecule.”

Applicants respectfully traverse this rejection. However, in the interest of expediting prosecution, and in no way conceding to the validity of the rejection, Applicants have amended claims 26 and 29 to include the recitation “provided that the effector molecule is not an MHC class II molecule”.

Applicants further note that claims 47 and 49 recite that “the effector molecule is a protein tag, and wherein the protein tag is selected from the group consisting of 6xHIS, EE epitope, and myc epitope.” Accordingly, the effector molecule in these claims cannot be a second MHC class II molecule, as asserted by the Examiner.

In view of the above, Applicants submit that the claims are patentably distinct from the claims of U.S. Patent No. 5,869,270, and respectfully request reconsideration and withdrawal of the rejection of the instant claims under the judicially-created doctrine of non-statutory double-patenting.

Rejection of Claims 25-29, 39-40, 44-47, and 49 Under 35 U.S.C. § 112, Second Paragraph

Claims 25-29, 39-40, 45, 47, and 49 have been rejected under 35 U.S.C. § 112, second paragraph, as being

ambiguous and unclear in the recitation of “polyspecific MHC complex” because the term implies that the complex comprises more than 1 MHC molecule, giving the complex multiple specificities. However, in claims 25, 28, 45 and 48, when A is one empty sc-HMC class molecule and C1, C2 and D are each independently “H” the complex comprises only a single MHC class II molecule of single specificity and has no effector molecules. Accordingly, the claimed construct is not commensurate with the recitation of “polyspecific” in the claims. Similarly, in claims 26, 29, 47 and 49, when the formula is A-B-C or B-A-C and A is one MHC class I molecule and C is “H” the complex is monospecific.

In order to expedite prosecution, and in no way conceding to the validity of the rejection, Applicants have amended the claims to remove the word “polyspecific”. Applicants submit that the claims are neither ambiguous nor unclear, and respectfully request reconsideration and withdrawal of the rejection.

Claims 44 and 46 have been rejected under 35 U.S.C. § 112, second paragraph as being “unclear in the recitation of ‘inhibitor’” because, according to the Examiner, “[i]t is unclear from the claims and specification exactly what is being inhibited.”

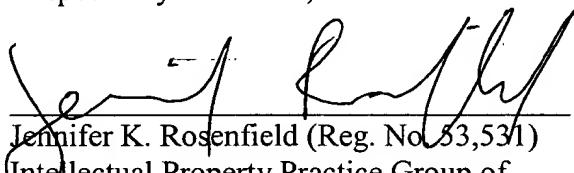
Applicants note that claims 44 and 46 were cancelled in the previous amendment filed by Applicants. However, because the limitations of claims 44 and 46 were incorporated into independent claims 25 and 28, and 26 and 29, respectively, Applicants will assume this rejection would apply to those claims, and will address it as such. Accordingly, in order to expedite prosecution, and in no way conceding to the validity of the rejection, Applicants have amended claims 25, 26, 28, and 29 to recite an “enzyme inhibitor”. Specific support for this amendment can be found, for example, at page 49, line 27.

In view of the above, Applicants submit that the claims are clear and unambiguous and respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 112, second paragraph.

CONCLUSION

It is believed the application is in condition for immediate allowance, which action is earnestly solicited. If a telephone conversation with Applicants' agent would expedite the prosecution of the above-identified application, the examiner is urged to call the undersigned at (617) 439-4444.

Respectfully submitted,



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Date: May 2, 2005